
REMARKS

Claims 10-19, 21-26, and 28 are currently pending in the subject application and are presently under consideration. Claims 10 and 22 have been amended herein for clarification purposes. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments below.

I. Rejection of Claims 10-15, 19, and 21 Under 35 U.S.C. §103(a)

Claims 10-15, 19, and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Munakata *et al.* (4,827,143) in view of Yufa (6,034,769). Withdrawal of the rejection is respectfully requested or at least the following reasons.

Claims 11-15, 19 and 21 depend from claim 10. Claim 10 has been amended to recite, among other features, a processor that determines a particulate count within the chamber, ***wherein the processor initiates dynamic cleaning of the chamber until the particulate count reaches an acceptable level.*** Support for the amendment can be found throughout the subject application, for example, on p. 3, ll. 2-6 and p. 4, ll. 3-10.

The present invention relates to a system that monitors particulate counts with respect to gas-phase particles within a chamber. When a contaminated particle count reaches beyond an acceptable level, an alarm is sounded and/or the processor initiates real-time or dynamic removal of the particles until an acceptable level is obtained in the chamber.

Contrary to the present invention, Munakata *et al.* involves obtaining a particle count in a liquid, rather than in a gas, as described in the present invention. Furthermore, Munakata *et al.* fails to teach or suggest cleaning the chamber in real time in order to obtain acceptable particle levels. In fact, Munakata *et al.* fails to even mention or address obtaining an acceptable particle count by way of cleaning the chamber to obtain an acceptable level of particles, wherein such cleaning is effected by an exhaust fan, for example. Thus, Munakata *et al.* does not teach or suggest each and every element of the claimed invention.

The Examiner cites Yufa to make up for the aforementioned deficiencies. In particular, the Examiner relies on Yufa to teach or suggest converting an electrical signal to a digital signal. However, Yufa fails to teach or suggest a processor that determines a particulate count within the chamber, wherein the processor initiates dynamic cleaning of the chamber until the particulate

count reaches an acceptable level. Similar to Munakata *et al.*, Yufa fails to even mention removing particles and/or cleaning the chamber to obtain an acceptable level of particles. Hence, Munakata *et al.* either alone or in combination with Yufa fails to teach or suggest the claimed invention to one ordinarily skilled in the art.

Regarding claims 12-14, the Examiner acknowledges that Munakata *et al.* does not teach or suggest that the measuring system can be applied to laser Doppler system, interferometry, or spectrometry. However, the Examiner subsequently states such features are well-known in the art and would have been obvious to one having ordinary skill in the art at the time the invention was made. Thus, it appears that the Examiner is taking official notice to the fact that it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the system of Munakata *et al.* into a laser Doppler system, interferometry, and/or spectrometry as required by the subject invention. Applicants respectfully traverse the Examiner's aforementioned statements and request that the Examiner cite a reference in support of his position pursuant to MPEP §2144.03.

In view of the foregoing, the rejection should be withdrawn.

II. Rejection of Claims 16-18, 22-26, and 28 Under 35 U.S.C. §103(a)

Claims 16-18, 22-26, and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Munakata *et al.* and Yufa as applied to claims 10-15, 19 and 21 above, and further in view of Harwell *et al.* (5,942,672) and Ikeda *et al.* (5,426,865).

Claims 16-18, 23-26 and 28 depend from claim 10 and 22, respectively. Claim 10 and 22 have been amended to recite, among other features, a processor that determines a particulate count within the chamber, wherein the processor initiates dynamic cleaning of the chamber until the particulate count reaches an acceptable level. Support for the amendment can be found throughout the subject application, for example, on p. 3, ll. 2-6 and p. 4, ll. 3-10.

As discussed above, the present invention relates to a system that monitors particulate counts with respect to gas-phase particles within a chamber. When a contaminated particle count reaches beyond an acceptable level, an alarm is sounded and/or the processor initiates real-time or dynamic removal of the particles until an acceptable level is obtained in the chamber.

Applicants' arguments set forth above with respect to claims 10-15, 19 and 21 apply

herein as well. For the aforementioned reasons, Munakata *et al.* either alone or in combination with Yufa fail to teach or suggest the claimed invention to one of ordinary skill in the art.

The Examiner cites Harwell *et al.* and Ikeda *et al.* to cure the aforementioned deficiencies. Specifically, the Examiner relies on Harwell *et al.* for its apparent teaching of an alarm system and on Ikeda *et al.* for its apparent teaching of exhausting particles from a chamber. Again, Applicants respectfully disagree.

As previously stated, Munakata *et al.* involves counting particles in a liquid. Conversely, Harwell *et al.* and Ikeda *et al.* relate to counting particles in a gas flow. Due to the inherent and/or implicit differences in characteristics between liquid-phase particle counting and gas-phase particle counting, one of ordinary skill would not have been motivated to combine Harwell *et al.* and/or Ikeda *et al.* with Munakata *et al.* In addition, Munakata *et al.* does not teach, suggest, or even address performing a cleaning or particle removing process to obtain an acceptable level of contaminant particles, as is required by the subject application.

In general, the rationale proffered to combine such teachings is to achieve benefits identified in Applicants' specification, to overcome problems associated with conventional methods, etc. Applicants' respectfully submit that this is an unacceptable and improper basis for a rejection under 35 U.S.C. §103. In essence, the Examiner is basing the rejection on the assertion that it would have been obvious to do something not suggested in the art because so doing would provide advantages stated in Applicants' specification. This sort of rationale has been condemned by the CAFC; *see e.g., Panduit Corp. v. Dennison Manufacturing Co.*, 1 USPQ2d 1593 (Fed. Cir. 1987).

Furthermore, the Examiner's basis for obviousness appears to be based on improper hindsight, in which the subject application provides the missing teaching or suggestion. *See, for example, Monarch Knitting Machinery Corp. v. Sulzer Morat GmbH*, 45 USPQ2d 1977 (Fed. Cir. 1998). Moreover, absent some teaching or suggestion in the prior art to combine elements, it is insufficient to establish obviousness by claiming that the separate elements of the invention existed in the prior art. *Arkie Lures Inc. v. Gene Larew Tackle Inc.*, 43 USPQ2d 1294, 1297 (Fed. Cir. 1997).

Hence, a *prima facie* case of obviousness has not been established against the present invention; and further, the subject application would not have been obvious to one of ordinary skill in the art.

Regarding claims 24 and 26, the Examiner acknowledges that Munakata *et al.* does not teach or suggest that the measuring system can be applied to a Doppler system or that a mirror could be employed to facilitate the operation of the system, respectively. However, the Examiner subsequently states such features are well-known in the art and would have been obvious to one having ordinary skill in the art at the time the invention was made. Thus, it appears that the Examiner is taking official notice to the fact that it would have been obvious to one of ordinary skill in the art to apply the system of Munakata *et al.* into a Doppler system, and/or employ a mirror to direct light as required by the subject invention. Applicants respectfully traverse the Examiner's aforementioned statements and request that the Examiner cite a reference in support of his position pursuant to MPEP §2144.03.

In view of the foregoing, the rejection should be withdrawn.

III. CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

AMIN & TUROCY, LLP



Himanshu S. Amin

Reg. No. 40,894

AMIN & TUROCY, LLP
24TH Floor, National City Center
1900 E. 9TH Street
Cleveland, Ohio 44114
Telephone (216) 696-8730
Facsimile (216) 696-8731